

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROBERT L. FITZGERALD,

Plaintiff,

vs.

QUALITY LOAN SERVICE CORP et al.,

Defendants.

3:10-cv-00001-RCJ-VPC

**ORDER**

This is a standard foreclosure case involving one property. The Complaint is a thirty-nine-page MERS-conspiracy-type complaint listing six causes of action. Judge Teilborg has partially remanded the case from Case No. 2:09-md-02119-JAT in the District of Arizona, permitting this Court to rule on the claims of unjust enrichment, injunctive relief, declaratory relief, and reformation. (*See* Order 8:24-9:2, June 4, 2010, ECF No. 37). The Court previously dismissed all claims except that for injunctive and declaratory relief based on statutorily defective foreclosure. It appeared the foreclosing entity, Quality Loan Services Corp., had been substituted as trustee by IndyMac, and IndyMac's interest in the note at the time of substitution was unclear because it had obtained the note from CTX Mortgage Co., Inc. ("CTX") via purported transfer by MERS, whose ability to make such a transfer was unclear. CTX has moved to dismiss because it is not alleged to have been involved in the foreclosure and it expressly disclaims by affidavit any interest in the note or deed or trust. CTX also attests that it

1 personally transferred its interest in the note and deed of trust to the FDIC as receiver for  
2 IndyMac in 2005. The Court therefore grants the motion and dismisses all remanded claims as  
3 against CTX. The Court does not purport to dismiss any claims against CTX that remain  
4 pending before Judge Teilborg.

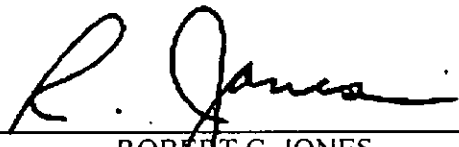
5 **CONCLUSION**

6 IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 60) is GRANTED.

7 IT IS FURTHER ORDERED that the Motion for Relief from Order Setting Settlement  
8 Conference is GRANTED (ECF No. 59).

9 IT IS SO ORDERED.

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11 Dated this 23<sup>rd</sup> day of March, 2011.

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14 ROBERT C. JONES  
15 United States District Judge  
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